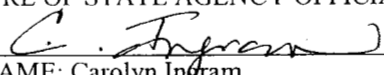
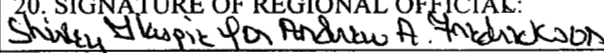


TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL		1. TRANSMITTAL NUMBER: 04-010	2. STATE New Mexico
FOR: HEALTH CARE FINANCING ADMINISTRATION		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
		4. PROPOSED EFFECTIVE DATE August 15, 2004	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES			
5. TYPE OF PLAN MATERIAL (Check One):			
<input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT			
COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR Subpart F; 42 CFR 447.331; 42 CFR 447.332		7. FEDERAL BUDGET IMPACT:	
		a. FFY 04 (reduction) (\$ 102,400)	
		b. FFY 05 (reduction) (\$ 830,250)	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachments 4.19 B pages 4 and 5		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachments 4.19 B pages 4 and 5	
10. SUBJECT OF AMENDMENT: Reimbursement for Prescribed Drugs		<i>New Mexico (04-010)</i> <i>Approved: 09/20/04</i> <i>Effective: 08/15/04</i>	
11. GOVERNOR'S REVIEW (Check One):		X OTHER, AS SPECIFIED: Authority Delegated to the Medicaid Director.	
<input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT			
<input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED			
<input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: Carolyn Ingram, Director Medical Assistance Division P.O. Box 2348 Santa Fe, NM 87504	
13. TYPED NAME: Carolyn Ingram			
14. TITLE: Director, Medical Assistance Division			
15. DATE SUBMITTED: July 23, 2004			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED: 29 JULY 2004		18. DATE APPROVED: 20 SEPTEMBER 2004	
PLAN APPROVED - ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: 15 AUGUST 2004		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: ANDREW A. FREDRICKSON		22. TITLE: ASSOCIATE REGIONAL ADMINISTRATOR DIV OF MEDICAID & CHILDREN'S HEALTH	
23. REMARKS:			

- b. Usual and Customary Charge -The usual and customary charge is defined as the charge made to a non-Medicaid patient for the same drug item. Usual and customary charges specifically must consider the following:
1. Discounts given to non-Medicaid patients for criteria such as age or being in a nursing home when the Medicaid patient meets the criteria for the discount.
 2. Discounts for paying cash. If any patient group gets discounts for paying cash, those discounts must be reflected in the usual and customary charge.
 3. Medicaid is to be given the advantage of discounts that the general public receives.
- c. Prescription Refills – There are limitations on the frequency for which it will reimburse the same pharmacy for dispensing the same drug to the same recipient. The limitation is established individually for each drug. Most drugs are subject to a maximum of three (3) times in ninety (90) days, with grace days as needed to account for necessary early refills, lost medications, dosage changes, etc. Controlled drugs and certain other drugs may require special consideration, as necessary, due to their specific indication, dosage form, or packaging, and are subject to limitations as may be appropriate. Refills must be consistent with the dosage schedule prescribed and all existing federal and state laws.
- The maximum quantity that may be dispensed at one time is a thirty-four (34) day supply, except for oral contraceptives that may be dispensed in greater quantities if the proper agent for the patient is established, and for maintenance medications which may be dispensed up to a ninety (90) day supply.
- d. Dispensing Fee – There is a dispensing fee for retail pharmacies that is set to \$3.65. This fee may not be applicable to physicians, institutions, clinics, and non-profit facilities. The Department establishes the dispensing fee by taking into account the costs of pharmacy operation. The Department will periodically survey pharmacy operations including operational data, professional services data, overhead data, and profit data.
- e. Reimbursement Limitations
1. Payment will not be made for drug items for which the manufacturer has not entered into a rebate agreement with the federal government except as specified in the provisions of sections 1902(a)(54) and 1927 of the Social Security Act.
 2. Payment will not be made to physicians for oral medication or medications that can be appropriately self-administered by the recipient. Payment to physicians for drugs will be limited to injectable and other medications administered by the physician or under his direction.

02-02

STATE	<u>New Mexico</u>	A
DATE REC'D	<u>7-29-04</u>	
DATE APP'D	<u>9-20-04</u>	
DATE EFF	<u>8-15-04</u>	
HCFA 179	<u>04-10</u>	

II. Payment for prescribed drugs.

For the Medicaid Fee-For-Service Program, the Department reimburses the lesser of the computed price or the usual and customary charge. This pricing methodology does not apply to drug items reimbursed under the Section 1915(b) Waiver for Managed Care.

- a. Computed Price - The computed price is defined as the allowed cost of the drug plus a dispensing fee established by the department. The allowed cost is the lower of the following:

1. State Allowed Costs (SAC) - State allowed costs are established after (1) assuring availability of FDA A-rated therapeutically equivalent drugs using information available from the FDA and from the American Society of Hospital Pharmacists on drug shortages; and (2) determining the typical package size used. SAC amounts will be calculated at 150% of the lowest cost product (from among Medicare reimbursement prices when available, manufacturer prices, wholesaler prices, and invoice prices) and will be at least 20% above the second lowest cost.

This calculated amount may be lowered as follows: (1) To 60% of the average price of all available therapeutically equivalent multi-source drug products, but not below the cost for which an item is determined to be consistently and readily available from local wholesale sources in the state; or (2) When 2 or more therapeutically equivalent multi-source drug products are determined to be consistently and readily available from local wholesale sources within the state, the SAC may be lowered to the price at which the product is consistently and readily available.

SAC reimbursement does not apply when a physician writes in his or her own handwriting "brand medically necessary" on the prescription. This constitutes physician certification that substitution of another product does not apply.

In establishing the State Allowed Costs, the New Mexico Medicaid Program does not exceed, in the aggregate, payment levels established by CMS for multiple source and other drugs as required by 42 CFR 447.331 and 42 CFR 447.332.

2. Estimated Acquisition Cost: (EAC) - EAC is equal to the lower of AWP minus 14%, the wholesaler average cost as submitted to the state, the manufacturer price as submitted to the state, or the pharmacy invoice price as obtained through audits.

This amount may be lowered as follows: (1) When the AWP less 14% is shown not to approximate average actual acquisition cost, in which case EAC shall be the actual amount at which an item can be shown to be consistently and readily available; or (2) When a pharmacy practice is specialized or limited to the extent that its buying practices do not approximate a retail pharmacy and AWP less 14% is shown not to accurately approximate the average actual acquisition costs, such as a pharmacy limited to mail order, limited to supplying items for chronic use, or an institutional or facility pharmacy with significant buying discounts not available to retail pharmacies. In these cases, the percent discount from AWP may range from 14% to 20%, based on audited data, to more accurately approximate actual cost.

3. Federal Upper Limit (FUL) - FUL is a federal maximum amount established by CMS.

FUL reimbursement does not apply when a physician writes in his or her own handwriting "brand medically necessary" on the prescription. This constitutes physician certification that substitution of another product does not apply.

98-01

STATE	New Mexico
DATE REC'D	7-29-07
DATE APP'VD	9-20-07
DATE EFF	8-15-07
HCFA 179	04-10

A